

MINUTES
PESTICIDE CONTROL BOARD MEETING
JULY 18, 2002
(approved 10/16/02)

The Pesticide Control Board meeting was held at 9:00 a.m. in the Washington Building in Richmond, Donald E. Fritz, Chairman, being in the chair and the Secretary being present.

The following Board members were present: Donald Fritz; Joseph Wilson; Thomas Saunders; James Garner; and Scott Mayausky. The following Board members were absent: Dr. William Bosher, Jr.; Joel Artman; Dr. Robert Satcher, Sr.; Dr. John Munday; Lynn Gayle; Dr. Lorenza Lyons (represented by Dr. Asmare Atalay); and Dr. Louis Swiger (represented by Dr. Michael Weaver).

The following staff members were present: J. Carlton Courter, III; Donald Blankenship; Markos Mulugeta; Dr. Marvin Lawson; Marshall Trammell; Daniel Schweitzer; Robert Bailey; Kathy Dictor; Liza Fleeson; Vickie Rengers; Barbara Elliotte; Elaine Lidholm and Rhonda Bates.

Others present: Sherri Smith and Julie Jones, VA Health & Environment Project; Liz White, VA Horticulture Society; Billy Walls, Consultant; Ellen Davis, VA Corn Growers/VA Small Grains; Frances Zaun, VA Farm Bureau; Dana Beegle and Dr. Dini Miller, VA Tech; Burton and Carol Smeltzer and Dr. Carol Bass, citizens.

CALL TO ORDER

Chairman Fritz called the meeting to order.

DETERMINATION OF A QUORUM

Following the roll call, Chairman Fritz announced that a quorum was present.

APPROVAL OF MINUTES

Mr. Wilson moved to adopt the minutes of the April 18, 2002 Board meeting. Mr.

Saunders seconded. The motion carried unanimously.

PUBLIC COMMENT PERIOD

Sherris Smith, VA Health & Environment Project, thanked the Board on the enlightening and educational tour of the Eastern Shore and the hospitality shown her. (Members of the Board and staff visited Taylor-Fulton Peerless Farm, Cherrystone Aqua Farms and saw a Demonstration of Aerial Application Equipment on April 17, 2002).

Burton Smeltzer, certified pesticide applicator from Chesapeake, VA, voiced concerns about those who make pesticide recommendations to the public without certification.

Dr. Carol Bass, Alexandria, VA, thanked the Board for their voluntary implementation of IPM Training in the public schools in VA and requested that the same be provided for pre-schools, independent schools and day care centers.

ENFORCEMENT ACTIVITIES FOR THE QUARTER

Dr. Lawson summarized the compliance activities for the past quarter. He reported that forty-one cases had been reviewed, resulting in the issuance of six cautionary letters, twenty-two warning letters and 38 civil penalties totaling \$14,890.

Seven Fact-Finding Conferences were held during this time period. The conference officers recommended reducing the penalties in two cases and affirmed the civil penalties in five cases.

Mr. Wilson presented the recommendations of the Enforcement Committee on those cases requiring action from the Board.

In Case No. 10298-Bug Man Exterminating, Mr. Wilson moved to accept the recommendation of the fact-finding officer to reduce the civil penalty from \$650 to \$350. Mr. Garner seconded. Motion carried unanimously.

In Case No. 10065, an adjudicative conference requested by James River Grounds Management, Inc. was held on May 7. Based on new information provided during and following that conference, the conference officer recommended a reduction in the civil penalty from \$1,500 to \$800. Mr. Wilson moved to accept the recommendation of the adjudicative conference officer. Mr. Saunders seconded. Motion carried unanimously.

In Case Nos. 10372, 10373, 10374-Eastern Exterminating Company, Mr. Wilson moved to accept the recommendation of the fact-finding officer to reduce the civil penalty in each case by \$500, reducing the cumulative total penalty amount from \$6,000 to \$4,500. Mr. Saunders seconded. Motion carried unanimously.

UPDATE OF WPS TRAINING ACTIVITIES

Cecily Rodriguez, Telamon Corporation, updated the Board on the AmeriCorps program which provides pesticide safety training under the guideline of the EPA Worker Protection Standard to agricultural workers and handlers.

PROGRESS REPORT ON SCHOOL IPM TRAINING

Dr. Dini Miller presented the second progress report on the IPM in Schools project funded, in part, by the Board.

STATUS OF PESTICIDE APPLICATOR SAFETY TRAINING PROGRAM

Dr. Weaver and Dana Beegle provided an update on the status of the manual development and pesticide applicator training programs. Dr. Weaver also commented on the loss to retirement of experienced extension agents and its impact on the pesticide programs.

PESTICIDE PROGRAM BUDGET PROJECTIONS

Dr. Lawson presented a three year-budget forecast of the pesticide program showing assumed inflation rates of 3% and 5%.

COMMISSIONER/DEPUTY COMMISSIONER REPORTS

Mr. Blankenship reported on the VA Grown and Savor VA promotions. He stated that the avian influenza infected 197 farms and resulted in the depopulation of 4.7 million chickens and turkeys, and in an economic loss of \$130 million. He updated the Board on the drought situation that is adversely impacting VA's agriculture. He reported that several federal grant programs are coming into the agency.

PROGRAM MANAGER'S REPORT

Dr. Lawson informed the Board that John Purcell will retire in September 2002 and his replacement is Lisa Rowley.

Dr. Lawson stated that OPS has had two resignations over the last quarter. Diana Canaday resigned as Compliance Manager and Jimmy Ruiz resigned as the Pesticide Investigator in Tidewater. Both positions have been advertised.

The Board has received authorization to publish the Notices of Intended Regulatory Action (NOIRA) for 2 VAC 20-30, Fee Regulation and 2 VAC 20-40, Pesticide Business Licenses. The NOIRA's will be published on the Regulatory Town Hall on July 24.

Dr. Lawson reported that the informational posters OPS developed to display at points-of-sale in stores that stock lawn care supplies have been ordered.

He reported on the complete phase-out of Methyl Bromide by the year 2005. Critical uses for which there are no alternatives may be allowed under a Critical Use Exemption. People who can meet certain criteria can apply for Critical Use Exemption; these applications are due at EPA by September 9, 2002.

Dr. Lawson reported that a policy decision has been made that Notices of Warning will no longer be counted as past violations when determining civil penalties. This change in procedure was made in order to comply with guidance received from the Assistant Attorney General John Purcell.

Dr. Lawson discussed two pesticide security issues. The Association of American Pesticide Safety Educators (AAPSE) sent surveys nationwide asking states about security practices regarding pesticides. Kathy Dictor discussed several of the questions which required policy decision and staff recommendations. Dr. Lawson assisted Dr. Butts with researching and formulating a recommendation on whether criminal background checks for aerial pesticide applicators should be done. This was not recommended as a condition of certification.

Dr. Lawson reported to the Board that new legislation requires that draft minutes of the Board must be posted no later than ten working days after the conclusion of the meeting. Final approved minutes must be posted within three working days of final approval of the minutes.

Dr. Lawson informed the Board of the option of choosing to have travel reimbursement received through the Electronic Data Interchange Program (EDI).

CHAIRPERSON'S REPORT

Chairman Fritz directed OPS staff to be prepared to explain the civil penalty matrix at the next Board meeting in Nelson County on October 16-17, 2002.

ADJOURNMENT

Meeting adjourned at 12:16 p.m.

(For further detail, taped minutes of the meeting are on file at VDACS and can be accessed by calling 804/371-6558).